IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.247 OF 2005

M/s. Facet Developers Ltd .. Appellant
(Org. Defendant)

vs.

Shri Shailesh Ganpat Phadke
& Others ..Respondents.
(Org. Plaintiffs)

Mr.Sandeep Karu, Advocate for the Appellant.

Mr.Suresh Gole, Advocate for the Respondent No.1.

A.S.Kumar, Advocate for Respondent No.2.

Ms. Getta Mulekar, Advocate for Respondent No.3.

CORAM : A.S.OKA, J.

DATED : 28th February, 2005.

P.C. :

1. Admit. Shri Gole for Respondent No.1. and the respective Advocates appearing for the Respondent Nos.2 and 3 waive service. The Advocate appearing for Mitha Nagar Matoshri Co-op. Housing Society Ltd., states the order appointing Administrator has been revoked. Service on Respondent Nos.4 to 9 is dispensed with. By consent the Appeal taken up for hearing forthwith.

2. By order impugned in this Appeal from Order, the learned Trial Judge has granted ad-interim relief in favour of Respondent No.1 Plaintiff. The learned Counsel appearing for the Appellant on instructions of the Appellant states that the Appellant has no objection if prayers (a) and (b) in the Notice of Motion taken out by the Respondent No.1 are granted and Notice of Motion is disposed of in terms of prayers (a) and (b). The learned Counsel for the Appellant states that the reference to proper agreement in prayer (b) of the Notice of Motion is to the agreement annexed as exhibit B to the plaint. Perusal of the plaint shows that the said submission made by the Counsel for the Appellant is correct.

3. In view of this position, the Appeal is disposed of by passing order as under :

(i) The Notice of Motion taken out by the Respondent No.1 (annexed at Page 16 to 20) of the appeal compilation is allowed in terms of prayers (a) and (b) with no order as to costs.

(ii) All contentions of the parties in the suit are expressedly kept open.

(iii) There shall be no order as to costs in this Appeal.

. Parties to act on the authenticated copy of this order.

(A.S.Oka, J.)